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OFFICE OF PETITIONS

In re Application of
Stamires et al.
Application No. 10/066,079
Patent No. 6,835,364
Filed: January 31, 2002

: DECISION REGARDING PTA

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed on December 21, 2004 requesting that the USPTO adjust the patent term adjustment determination at the time of the mailing of the notice of allowance from a determination of two hundred and fifty-four (254) days to a determination of three hundred and twenty-four days.

Applicants' application for Patent Term Adjustment is **GRANTED**. The Office will *adjust the PAIR calculation* at the time of the issuance of the patent to reflect a determination of **324** days. The Office will adjust the PTA calculation reflected in PAIR and also *sua sponte* issue a certificate of correction reflecting this decision.

Patentees assert that they failed to engage in reasonable efforts to conclude prosecution to the extent of a seven-day reduction. Patentees assert there is no justification for the 70-day reduction due to "Supplemental papers-Oath or Declaration". Accordingly, applicants assert that Office delayed by a period of 331 days and applicants delayed by a period of 7 days.

Patentees' arguments are persuasive to the extent herein. The Office agrees that the reduction of 70 days is in error. The Office finds that the error is improper because the submission of the oath or declaration after the mail date of the notice of allowance is actually a courtesy copy of a previously submitted oath or declaration that was originally filed on May 28, 2002. Accordingly, there was no submission after the mail date of the notice of allowance. The Office rejects patentees' arguments if patentees are arguing that no supplemental oath or declaration submitted after the mail date of the notice of allowance is considered a failure to engage in reasonable efforts to conclude prosecution of the application. The Office provided notice to the public that submission of supplemental oaths or declaration will be considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). See 1247 Off. Gaz. Pat. Off. 111 (June 26, 2001).

After the mailing of this decision, the Office will forward the file to the Certificate of Correction branch for a prompt issuance of a certificate of correction.

The applicants have submitted the $200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are necessary in deciding this petition.

Any questions concerning this letter should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Deputy Commissioner
For Patent Examination Policy

cc: Adjusted Pair Calculation
DRAFT certificate of correction

Day : Monday
Date: 1/15/2007

PALM INTRANET

Time: 13:30:43

PTA Calculations for Application: 10/066079			
Application Filing Date:	01/31/2002	PTO Delay (PTO):	331
Issue Date of Patent:	12/28/2004	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	77
Post-Issue Petitions:	0	Total PTA (days):	324
PTO Delay Adjustment:	70		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	01/15/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	70		
39	12/28/2004	PATENT ISSUE DATE USED IN PTA CALCULATION			
38	12/03/2004	RECEIPT INTO PUBS			
37	12/02/2004	DISPATCH TO FDC			
36	12/02/2004	APPLICATION IS CONSIDERED READY FOR ISSUE			
35	09/28/2004	ISSUE FEE PAYMENT VERIFIED			
34	10/20/2004	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		70	
33	11/22/2004	RECEIPT INTO PUBS			
32	11/01/2004	WORKFLOW - QUERY REQUEST - FINISH			
31	10/12/2004	WORKFLOW - QUERY REQUEST - BEGIN			
30	09/28/2004	ISSUE FEE PAYMENT RECEIVED			
29	09/17/2004	MAIL CORRECTED NOTICE OF ALLOWANCE			
28	09/17/2004	MAIL EXAMINER'S AMENDMENT			
27	09/16/2004	ISSUE REVISION COMPLETED			
26	09/16/2004	CORRECTED NOTICE OF ALLOWANCE			
25	09/16/2004	EXAMINER'S AMENDMENT COMMUNICATION			
24	09/03/2004	RECEIPT INTO PUBS			
23	09/02/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
22	08/25/2004	MAIL NOTICE OF ALLOWANCE			
21	08/24/2004	ISSUE REVISION COMPLETED			
20	08/24/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
19	08/23/2004	NOTICE OF ALLOWABILITY			
18	06/24/2004	DATE FORWARDED TO EXAMINER			

17	06/01/2004	RESPONSE AFTER NON-FINAL ACTION		7	14
16	06/01/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
15	06/01/2004	WORKFLOW INCOMING AMENDMENT IFW			
14	02/25/2004	MAIL NON-FINAL REJECTION	331		-1
13	02/19/2004	NON-FINAL REJECTION			
12	02/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	05/13/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/08/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	06/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	06/13/2002	APPLICATION DISPATCHED FROM OIPE			
7	06/12/2002	APPLICATION IS NOW COMPLETE			
6	05/28/2002	ADDITIONAL APPLICATION FILING FEES			
5	05/28/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	03/27/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	03/21/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/14/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/31/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT	:	6,835,364 B2
DATED	:	December 28, 2004
INVENTOR(S)	:	Stamires et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (254) days

Delete the phrase "by 254 days" and insert – by 324 days--